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PENNSYLVANIA STATE PROGRAMMATIC GENERAL PERMIT # 2 (PASPGP-2)

Issued _____

TO WHOM IT MAY CONCERN:

Part I – Authorities:

A. Federal Authorities:

1. Section 404(e) of the Clean Water Act (CWA) (33 United States Code [U.S.C.] Section [§] 1344) allows for the issuance of State programmatic general permits (SPGPs), which operate in conjunction with a State regulatory program that protects the aquatic environment in a manner equivalent to the Department of the Army regulatory program, provided that the activities permitted under each category of such SPGPs are similar in nature and result in no more than minimal individual or cumulative adverse effects on the environment. This Pennsylvania State Programmatic General Permit # 2 (PASPGP-2) is issued pursuant to Section 404(e) and is based on and consistent with the Guidelines described in Subsection 404(b)(1) of the CWA.
2. Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the CWA, as amended, and Section 10 of the River and Harbor Act of 1899 (33 U.S.C. § 403), the Secretary of the Army hereby authorizes the discharge of dredged, or fill material or structures into waters of the United States, including wetlands. These discharges and structures must comply with all the terms, conditions, and processing procedures identified in this PASPGP-2.
3. Section 404(q) of the CWA states that agreements are to be entered into in order to minimize to the maximum extent practicable, duplication, needless paperwork and delays in the issuance of permits. Memorandum of Agreements (MOAs) have been developed between U.S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS), and Environmental Protection Agency (EPA) to outline the means for establishing these goals. The coordination, communication process, professional partnerships, and cooperative working relationships established by these MOAs will be maintained where applicable in this PASPGP-2.
4. Section 404 (c) of the CWA authorizes the Administrator of EPA to prohibit the specification of any defined area as a disposal site, and to deny or restrict the use of any defined area for specification as a disposal site, whenever the Administrator determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.

B. State Authorities:

1. The Dams Safety and Encroachments Act, Title 32, Pennsylvania Statutes, Sections 693.1 – 693.27 [titles and sections of these statutes hereinafter cited as xx P.S. §§ xxx.x-xxx.x.]
2. The Clean Streams Law, 35 P.S. §§ 691.1 – 693.1001
3. Dam Safety and Waterway Management Rules and Regulations, Title 25, Pennsylvania. Code, Chapter 105 [hereinafter cited as 25 Pa. Code, Chapter 105; specific sections will be referred to by abbreviation “§”.]

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Part II – Scope of Activities:

A. Applicability:

This authorization applies to the discharge of dredged, or fill materials and the placement of structures including all attendant features both temporary and or permanent, that are part of a single and complete project that individually or cumulatively impact 1.0 acre or less of waters of the U.S. including navigable waters and jurisdictional wetlands, for specific categories of activities as regulated by Section 404 of the CWA or Section 10 of the River and Harbor Act of 1899. Discharges of dredged, or fill materials and the placement of structures that comply with all terms, conditions, and processing procedures contained in the PASPGP-2 and have only minimal individual and cumulative impacts are authorized. The term “discharge of dredged material,” as defined at 33 CFR 323.2(d), means any addition of dredged material, including redeposit of dredged material other than incidental fallback, within waters of the United States. The term “discharge of fill material,” as defined at 33 CFR 323.2(e) means the addition of any material, including the redeposit of dredged material that serves the primary purpose of replacing an aquatic area with dry land or changing the bottom elevation of a waterbody. The term “discharge of fill material” also means some discharges within waters of the United States, including wetlands and navigable waters, associated with activities such as mechanized land clearing, ditching, channelization, or other excavation. The term “structure,” as defined at 33 CFR 322.2(b) shall include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other obstacle or obstruction. Discharges associated with excavation activities are defined in the August 25, 1993 Federal Register, 58 FR 45008. The term “waters of the United States” means all waters defined by Federal Regulations 33 CFR Part 328 and 329. For purposes of this permit, the acreage of impact to waters of the United States including jurisdictional wetlands includes the direct impact (i.e., the fill area) plus the area of waters of the United States that are indirectly affected by flooding, excavation, or drainage as a result of the project.

B. Activities Not Authorized:

The following activities are ineligible for this PASPGP-2. To receive Federal authorization for these activities, an appropriate permit application must be submitted to the applicable Corps District Office:

1. Activities that will have more than minimal individual or cumulative adverse environmental impacts.
2. Activities that will result in a total of more than one acre of impacts to waters of the United States, including jurisdictional wetlands. The acreage of impacts to waters of the United States includes the direct impact (i.e., the fill area), plus the area of waters of the United States including jurisdictional wetlands which are indirectly affected by flooding, excavation, or drainage as a result of the project. The one-acre impact limitation applies to the total impact of all components both temporary and permanent, that are part of a single and complete project, regardless of the type or category of authorization, or combination of authorizations, used to approve the project. Impacts to stream channels totaling over 43,560 square feet (1 acre) are also ineligible.
3. Activities waived at 25 Pa. Code § 105.12(a)(1).
4. Activities authorized by Pennsylvania Department of Environmental Protection [PADEP] General Permit No. 15 [25 Pa. Code §§ 105.441-105.449, GP-15.]
5. Activities which are reviewed and authorized by Chapter 105 permits in conjunction with coal and non-coal mining permits issued by the PADEP District Mining Offices.
6. Activities located waterward of the ordinary high water line or the mean high tide line on the following Pennsylvania waterbodies:

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- a. All of the Delaware River,
 - b. The Schuylkill River downstream of the confluence with Mill Creek at Port Carbon, Pennsylvania,
 - c. The Lehigh River downstream from the State Route 940 Bridge,
 - d. All of the Ohio River,
 - e. All of the Beaver River,
 - f. All of the Little Beaver River,
 - g. All of the Mahoning River,
 - h. All of the Monongahela River,
 - i. The Youghiogheny River from its mouth at McKeesport, Pennsylvania to river mile 31.2 at West Newton, Pennsylvania,
 - j. The Allegheny River, from its mouth in Pittsburgh, Pennsylvania to river mile 197.4 at Kinzua Dam, north of Warren, Pennsylvania.
 - k. The Kiskiminetas River from its mouth near Freeport, Pennsylvania to river mile 26.8 at Saltsburg, Pennsylvania, and
 - l. Tenmile Creek from its mouth at Millsboro, Pennsylvania to river mile 2.7.
 - m. Activities within Lake Erie which require submittal of a Joint Permit Application or Environmental Assessment to the PADEP.
7. Instances where EPA's Regional Administrator has notified the District Engineer and applicant in writing that he intends to use his authority under 404(c) of the CWA to prohibit, deny, restrict, or withdraw the use for specification, of any defined area for the discharge of dredged or fill material at the proposed site.
 8. Activities that have been denied a PADEP Chapter 105 Permit, a CWA Section 401 Water Quality Certification, or a Coastal Zone Certification.
 9. This permit may not be used to authorize all or any portion of a project that would divert more than 10,000 gallons per day of surface water or groundwater into or out of the Great Lakes Basin.

C. Activities Authorized:

All activities listed in Category I and those determined by the Corps to have no more than minimal adverse environmental effects, individually and cumulatively, in Categories II and III are eligible for authorization with PASPGP-2. The Corps will consult with the other regulatory resource agencies and the public, as appropriate, for activities in Categories II and III, before making a decision.

Part III- Categories of Activities:

A. Category I:

The following categories of activities are authorized by the PASPGP-2 without notification to the appropriate Corps District, provided the proposed regulated activities comply with all terms, conditions, limits, best management practices and processing procedures identified and required by the PASPGP-2 and all applicable PADEP Chapter 105 authorizations.

Project specific activities as listed in subcategories 1 through 24 below, for the discharge of dredged or fill material and placement of structures, including all attendant features both temporary and permanent, that are part of a single and complete project that individually or cumulatively result in direct and indirect impacts to one acre or less of waters of the United States, including jurisdictional wetlands, or 250 linear feet or less of streams, rivers or jurisdictional watercourse, including those activities that are also authorized under Pennsylvania General Permit #3 for Stream Bank Rehabilitation and Protection impacting 500 linear feet or less (gravel bar removal activities that

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would also be authorized under General Permit No. 3 require notification to the Corps as a Category III activity – see Part III. C. below. These activities may also qualify: a) to be registered as PADEP General Permits, (Chapter 105.441-105.449 pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq.), and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pennsylvania Code General); or b) as PADEP Waivers (Chapter 105.12 (a) (2) through (10) and (12) through (15) pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq.; or c) PADEP Emergency Permits.

Activities:

1. Fish Enhancement Structures

This activity authorizes the construction, installation and maintenance of certain fish enhancement structures in the regulated waters of the Commonwealth of Pennsylvania. The fish enhancement structures authorized by this general permit consist of deflectors, low flow channels structures, channel blocks, mudsills and boulders placed in streambeds. This includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, §§ 105.441-105.449 General Permit No. 1 {GP-1}). Placements of these fish enhancement structures are also subject to the general conditions identified in the GP-1 as well as the additional structure specific conditions identified in the GP-1 in order to insure no more than minimal impacts to the aquatic environment.

2. Private Recreational Docks

This activity authorizes the installation, operation and maintenance of private recreational docks in and along the regulated waters of the Commonwealth of Pennsylvania and includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, §§ 105.441-105.449 General Permit No. 2 {GP-2}). Activities in this category related to the installation, operation and maintenance of private recreational docks are also subject to the specific conditions identified in the GP-2 to insure no more than minimal impacts to the aquatic environment.

3. Bank Rehabilitation, and Bank Protection Activities

This activity authorizes the installation, operation, modification and maintenance of bank rehabilitation and protection along the regulated waters of the Commonwealth of Pennsylvania and includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, §§ 105.441-105.449 General Permit No. 3 {GP-3}). Bank rehabilitation and bank protection activities are also subject to the conditions identified in the GP-3 in order to insure no more than minimal impacts to the aquatic environment.

4. Outfall Structures

This activity authorizes the construction, operation and maintenance of outfall structures along the regulated waters of the Commonwealth of Pennsylvania, and includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, §§ 105.441-105.449 General Permit No. 4 {GP-4}). Outfall structure activities are also subject to the conditions identified in the GP-4 in order to insure no more than minimal impacts to the aquatic environment.

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5. Utility Line Stream Crossing Activities

This activity authorizes the installation, operation and maintenance of utility line stream crossings of the regulated waters of the Commonwealth of Pennsylvania, and includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, §§ 105.441-105.449 General Permit No. 5 {GP-5}). Utility line stream crossing activities are also subject to the conditions identified in the GP-5 in order to insure no more than minimal impacts to the aquatic environment.

6. Agricultural Crossings and Ramps

This activity authorizes the installation, operation and maintenance of agricultural crossings and ramps in the regulated waters of the Commonwealth of Pennsylvania, including those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, §§ 105.441-105.449 General Permit No. 6 {GP-6}). Agricultural crossing and ramp activities are also subject to the conditions identified in the GP-6 in order to insure no more than minimal impacts to the aquatic environment.

7. Minor Road Crossings

This activity authorizes (1) the construction, operation and maintenance of a minor road crossing across wetlands which individually impacts less than 0.10 acre of wetlands, or cumulatively impacts less than 0.25 acre of wetlands (2) the construction, operation and maintenance of a minor road crossing across a stream where the watershed drainage is less than 1.0 square mile or less and (3) the removal of an existing minor road crossing across a stream where the drainage area is 1.0 square mile or less and includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, §§ 105.441-105.449 General Permit No. 7 {GP-7}). Minor road crossing activities are also subject to conditions identified in the GP-7 in order to insure no more than minimal impacts to the aquatic environment.

8. Temporary Road Crossing Activities

This activity authorizes the construction, operation and maintenance of temporary road crossings of the regulated waters of the Commonwealth of Pennsylvania, and includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, §§ 105.441-105.449 General Permit No. 8 {GP-8}). Temporary road crossing activities are also subject to the conditions identified in the GP-8 in order to insure no more than minimal impacts to the aquatic environment.

9. Agricultural Activities

This activity authorizes the installation, operation, modification and maintenance of certain agricultural activities that encroach into streams and their floodways or bodies of water wholly or in part within or forming part of the boundary of the Commonwealth of Pennsylvania. These agricultural activities are grassed or lined waterways, terraces, diversions, waste storage facilities, spring development and minor drainage that supports these activities and is necessary for contour strips when engaged in as part of an existing agricultural operation and shall only be implemented as part of a conservation plan consistent with the 25 Pa. Code, Chapter 102 (relating to erosion control) and approved by the appropriate Pennsylvania County Conservation District. This includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, §§ 105.441-105.449 General Permit No. 9 {GP-9}). Agricultural activities are also subject to the conditions identified in the GP-9 in order to insure no more than minimal impacts to the aquatic environment.

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10. Abandoned Mine Reclamation Activities

This activity authorizes the construction, operation and maintenance of dredged or fill material or other water encroachment or obstruction for reclamation of an abandoned mine site, where the PADEP has issued a notice of intent to forfeit the bond for a mining activity permitted after August 1977 and before July 1982, and includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, §§ 105.441-105.449 General Permit No. 10 {GP-10}). Abandoned mine reclamation activities in this category are also subject to the conditions identified in the GP-10 in order to insure no more than minimal impacts to the aquatic environment.

11. Water Obstruction

This activity authorizes a water obstruction in a stream or floodway with a drainage area of 100 acres or less. This work does not include fill in wetlands either within the stream channel or within the floodway. This includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 2). Except where wetlands within the stream channel are proposed to be filled.

12. Aerial Crossings Activities

This activity authorizes an aerial crossing of a nonnavigable stream or wetland by electric, telephone or communications lines which are not located in a Federal wilderness area or watercourse or body of water designated as a wild or scenic river under the Wild and Scenic Rivers Act of 1968 (16 U.S.C.A §§ 1271-1287) or the Pennsylvania Scenic Rivers Act (32 P. S. §§ 820.21-820.29). This activity applies to one or more wires attached aboveground to single poles. This does not apply to the maintenance and construction of towers, roads or other similar discharges of fill or dredged material, water obstructions or encroachments. This includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 3).

13. Mining Impoundment Activities

This activity includes any dam subject to the requirements of the Mine Safety and Health Administration, 30 CFR 77.216-1 and 77.216-2 (relating to water, sediment or slurry impoundments and impounding structures; identification; and water, sediment, or slurry impoundments or impounding structures; minimum plan requirements; changes or modifications; certification), that also receives a determination from the PADEP, on the basis of preliminary data submitted by the applicant, that the dam is of Size Classification C and Hazard Potential Classification 3 as defined in 25 Pa. Code § 105.91 (relating to classification of dams and reservoirs) and is not located in a watercourse or body of water designated as a wild and scenic river under the Wild and Scenic Rivers Act of 1968 or the Pennsylvania Scenic Rivers Act. This includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 4).

14. Acid Mine Drainage, Sewage and Other Waste Related Activities

This activity includes water obstructions or encroachments located in, along, across or projecting into a wetland or impoundment, constructed and maintained for the purpose of treating acid mine drainage, sewage or other waste, if the wetland or impoundment is a treatment facility constructed under a valid permit issued by the PADEP under the Surface Mining Conservation and

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Reclamation Act (52 P. S. §§ 1396.1-1396.31), The Clean Streams Law (35 P. S. §§ 691.1-691.1001) the Noncoal Surface Mining Conservation and Reclamation Act (35 P. S. §§ 3301-3326), the Solid Waste Management Act (35 P. S. §§ 6018.101-6018.1003), the Oil and Gas Act (58 P. S. §§ 601.101-601.605) and the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1-750.20). This activity includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 5).

15. Stormwater Management and Erosion Control Activities

This activity includes a water obstruction or encroachment located in, along, across or projecting into a stormwater management facility or an erosion and sedimentation pollution control facility which meets the requirements in 25 Pa. Code, Chapter 102 (relating to erosion control), if the facility was constructed and continues to be maintained for the designation purpose. This includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 6).

16. Maintenance Activities for Agricultural Drainage Systems

This activity includes maintenance of field drainage systems that were constructed and continue to be used for crop production. Crop production includes:

- Plowing, cultivating, seeding, grazing or harvesting.
- Crop rotation.
- Government set aside programs

This includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 7).

17. Crop Production

This activity includes plowing, cultivating, seeding or harvesting for crop production. This category includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No.8).

18. Minor Stream Ford Activities

This activity includes construction and maintenance of ford crossings of streams for individual private personal use, which require only grading of banks for approach roads and the placement of not more than 12 inches of gravel for roadway stability. Fords may not be used for commercial purposes and shall cross the regulated waters of the United States located in the Commonwealth of Pennsylvania in the most direct manner. This does not apply to activities in exceptional value streams as listed under 25 Pa. Code, Chapter 93 (relating to water quality standards) or in wild trout streams. This includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 9).

19. Navigational Aid Activities

This activity includes a navigational aid or marker, buoy, float, ramp or other device or structure for which a permit has been issued by the Pennsylvania Fish and Boat Commission under Title30, Pennsylvania Consolidated Statutes, Section 5123(a)(7) (relating to general boating regulations).

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This includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No.10).

20. Activities Related to Use of Water Recording, Gauging and Testing Devices

This activity includes the construction, operation or removal of staff gages, water recording devices, water quality testing devices, including, but not limited to, sensors, intake tubes, weirs and small buildings which contain required instruments and similar scientific structures. This includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 12).

21. Activities Related to the Use of Abandoned Railroad Bridges and Culverts

This activity includes a bridge or culvert purchased from an operating railroad company subsequent to the abandonment of the railroad line, track, spur or branch pursuant to the approval of the Surface Transportation Board. Major maintenance or reconstruction, or stream dredging may not be undertaken until the new owner obtains a permit under this chapter. This includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 13).

22. Artificial Ponds and Reservoir Maintenance Activities

This activity includes maintenance of an artificial pond or reservoir to its original storage capacity where:

- The contributory drainage area is less than or equal to 100 acres.
- The greatest depth of water at maximum storage elevation is less than or equal to 15 feet.
- The impounding capacity at maximum storage elevation is less than or equal to 50-acre feet.

This includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 14).

23. Abandoned Mine Related Activities

This activity includes the construction and maintenance of discharged fill or dredged material or other water encroachment or obstruction on an abandoned mining site, where the PADEP has issued a notice of intent to forfeit the bond for a mining activity permitted after July 1982. This category includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No. 15).

24. Bridge and Culvert Maintenance Activities

This activity includes maintenance activities for bridges and culverts within 50 feet upstream and downstream of a structure, performed in accordance with the maintenance provision of a previously issued PADEP permit.

B. Category II Activities:

The following categories of activities which involve the discharge of dredged, excavated, or fill material and the placement of structures including all attendant features both temporary and or permanent, that are

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part of a single and complete project that individually or cumulatively impact one acre or less of waters of the U.S. including jurisdictional wetlands may be authorized by the PASPGP-2 after an opportunity for review and comment by the Corps, all other Federal and State Resource Agencies and the general public, provided the proposed regulated activities comply with all the terms, conditions, best management practices and processing procedures identified and required by the PASPGP-2. Notification of the proposed activity will be through publication in the PA Bulletin.

1. Activities Requiring Pennsylvania State Permits or Approvals

Activities that also require a PADEP Individual Permit, Dam Permit or Environmental Assessment Approval and request for 401 Water Quality Certification, and which involve the discharge of dredged, excavated, or fill material and the placement of structures including all attendant features both temporary and or permanent, that are part of a single and complete project that individually or cumulatively impact one acre or less of waters of the U.S. including jurisdictional wetlands or 250 linear feet or less of streams, rivers, or jurisdictional watercourses. For purposes of this permit, the acreage of impacts to waters of the U.S. includes the fill area plus waters of the U.S. that are affected by flooding, excavation, or drainage as a result of the project. Notification shall be through publication in the PA Bulletin.

2. Activities Involving the Removal of Abandoned Dam and Water Obstructions or Encroachments

The removal of abandoned dams, water obstructions and encroachments where PADEP determines in writing, on the basis of data, information or plans submitted by the applicant, that the removal of the abandoned dam water obstruction or encroachment cannot imperil life or property, have significant effect on coastal resources or have an adverse impact on the environment, and the plans provide for restoration and stabilization of the project area. This category includes those activities authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No.11).

3. Restoration Activities

Restoration activities undertaken and conducted pursuant to a restoration plan which has been approved, in writing, by PADEP. This category includes those activities also authorized pursuant to Section 7 of the Dam Safety and Encroachments Act, 32 P.S. § 693.1, et seq., and the rules and regulations promulgated thereunder in the Pennsylvania Bulletin (codified at 25 Pa. Code, Chapter 105, § 105.12, Waiver No.16).

C. Category III Activities:

The following categories of activities which involve the discharge of dredged, excavated, or fill material and the placement of structures including all attendant features both temporary and or permanent, that are part of a single and complete project that individually or cumulatively impact 1.0 acre or less of waters of the U.S. including jurisdictional wetlands may be authorized by the PASPGP-2 only after case by case project coordination with the Federal agencies. Coordination will be accomplished by forwarding, copies of all project application files to the Corps of Engineers, or in cases of Federal Endangered Species Act (ESA) concerns, directly to the USFWS. Coordination mechanisms are further detailed in the SOP document. Additionally, in order to be authorized under this Category, the proposed regulated activity must comply with all the terms, conditions, best management practices and processing procedures identified and required by the PASPGP-2.

1. Activities Impacting More Than 250 Linear Feet of Jurisdictional Watercourses

Activities requiring a PADEP Individual Permit, Dam Permit or Environmental Assessment approval and requests for 401 Water Quality Certification, which individually or cumulatively impact more than 250 linear feet [but still less than 43,560 square feet] of streams, rivers or other jurisdictional

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watercourse (except bank rehabilitation and restoration activities, authorized under General Permit #3, that impact less than 500 linear feet), including all attendant features, both temporary and permanent, that are part of a single and complete project. This threshold is applied to the total impact of all components of a single and complete project, regardless of the type of PADEP authorization or combination of authorizations, used to approve the project. (for the purposes of this condition, the linear footage of impact shall be measured along the centerline of the watercourse when both banks of the watercourse are involved or along a single streambank when one streambank is involved, or measured across the watercourse, from top of bank to top of bank, when the project extends transversely across the watercourse).

2. Activities Within Areas Potentially Containing Endangered Species And Their Habitat

For any activity which may affect a Federally listed species or proposed species, or its critical habitat, the Corps must initiate consultation with FWS and NMFS in accordance with the Federal Endangered Species Act (ESA) prior to authorization of the activity under the PASPGP-2. No activity is authorized under the PASPGP-2 which may affect Federally listed or proposed species or adversely modify critical habitat, until the consultation requirements of Section 7 of the ESA are met. In addition, no activity is authorized under the PASPGP-2 which is likely to, individually or cumulatively, jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the ESA, or which is likely to destroy or adversely modify the critical habitat of such species identified under ESA.

In order to further ensure compliance with General Condition 10 regarding Endangered Species, careful screening of all projects proposed to be approved using the PASPGP-2 is necessary as outlined in the PASGP-2 SOP. In addition,

- a. All permit applications or request for acknowledgement for activities/projects proposed within or immediately adjacent to streams occupied by Federally listed, proposed or candidate mussels as indicated below shall be sent to the US Fish and Wildlife Service (FWS) for Review and comment.

STREAM	COUNTY(S)	SPECIES PRESENT
Allegheny River (from Kinzua Dam to lock and Dam 8)	Armstrong, Clarion, Forest, Venango, Warren	Northern riffleshell and clubshell
French Creek	Crawford, Erie, Mercer, Venango	Northern riffleshell and clubshell
Conneaut Outlet	Crawford	Clubshell
Conneauttee Creek	Crawford	Clubshell
LeBoeuf Creek	Erie	Northern riffleshell and clubshell
Muddy Creek	Crawford	Clubshell

- b. In counties of bog turtle occurrences, (listed below) **all** requests, (impacting between zero and one acre of wetlands) for PADEP Individual Permits, Dam Permits, Environmental Assessment approvals and all PADEP General Permits Nos. 5, 6, 7, 8, and 9 in specific areas within the counties listed below, will be forwarded to the FWS for separate ESA screening prior to issuance or acknowledgement of the PADEP authorization and the PASPGP-2, as outlined in the SOP.

Adams, Berks, Bucks, Chester, Cumberland, Delaware, Franklin, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, York

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3. Activities Potentially Obstructing Fish Passage

Any activity which involve the placement of dams, weirs or permanent fill which obstruct the passage of diadromous fish, stream channelization, stream relocation or the placement of pilings or structural supports which have the same effect of a discharge of fill material in the Juniata River mainstream, including the Raystown Branch to Raystown Lake and Frankstown Branch to Holidaysburg; or the Susquehanna River mainstem, the New York State line and the West Branch Susquehanna River to Lock Haven.

4. Activities Potentially Affecting Historic Or Cultural Resources

Any activity which may adversely affect cultural resources listed or eligible for listing in the National Register of Historic Places pursuant to the requirements of Section 106 of the NHPA. This includes projects where The Pennsylvania Historic and Museum Commission (PHMC) in cooperation with the State Historic Preservation Officer (SHPO) have determined and the Corps has concurred that archaeological or other cultural resources are believed to exist within the permit area. Coordination mechanisms are detailed in the Standard Operating Procedures (SOP) document.

5. Activities Potentially Impacting Wild Or Scenic Rivers

Any activity which occurs in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "Study River" for possible inclusion in the system are not authorized by this PASPGP-2, unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. As stated in Part II.B.3. above, activities located waterward of the ordinary high water (OHW) line or mean high tide (MHT) line in the Delaware River and Allegheny River are ineligible for the PASPGP-2, while activities located in wetlands landward of the OHW or MHT lines of these rivers are eligible for authorization under the PASPGP-2.

These designated rivers include:

- a. The Upper Delaware Scenic and Recreational River, including the designated buffer area, beginning at Hancock, New York, and continuing 73.4 river miles to Mill Rift, Pennsylvania.
- b. The Middle Delaware Scenic and Recreational River as it flows through the Delaware Water Gap National Recreation Area.
- c. The Allegheny River, from the Kinzua Dam, downstream seven miles to the US Rt. 6 Bridge in Warren, Pennsylvania, from, Buckaloons Recreation Area in Allegheny National Forest downstream 47 miles to Alcorn Island just north of Oil City and from Franklin, Pennsylvania downstream 31 miles to the refinery at Emlenton, Pennsylvania.
- d. The Clarion River from Mile 91.1 in the Borough of Ridgeway, Elk County, Pennsylvania, at the National Forest and Gamelands Boundary to Mile 39.4 at the normal pool elevation of Piney Dam.
- e. The White Clay Creek watershed including all of its tributaries.

The Study Rivers include:

The Lower Delaware River beginning seven river miles north of Belvidere, New Jersey, continuing to Washington Crossing, Pennsylvania, including Panacussing Creek, to Richlandtown Pike/ Richlandtown Road, all of the Tinicum Creek including Rapp Creek and Beaver Creek Tributaries, and Tohickon Creek to Pumping Station Road.

6. Any activity having potential to affect the structural elements or hydraulic capacity of a Federal flood control project.

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7. Permit Modifications

- a. Any proposed activity that is submitted as a permit modification will be forwarded to the Corps if the Corps was previously, directly involved in the review and permitting of the original authorization.
- b. Any proposed activity that is submitted as a permit modification will be forwarded to the Corps if the Corps was not involved previously but the modification causes the impact to exceed the reporting threshold (250 linear feet of stream) or the eligibility limit (more than one acre of jurisdictional wetlands or stream channel impacts).

8. Gravel Bar Removal Activities

Any gravel bar removal activity eligible for General Permit #3 (Bank Rehabilitation, Bank Protection and Gravel Bar Removal, except for projects 50 feet upstream or downstream of an existing bridge or culvert.

9. Emergency Permit Activities

Any activity eligible for a PADEP Emergency Permit that exceeds 250 linear feet of stream impact.

10. After-the-Fact Permit Activities

Any activity proposed for authorization for the purpose of resolving violations of Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. This activity also applies to Category I and II activities that are not themselves violations, but that are part of another activity or project that is a violation, or that occur on the same property as a violation that will be reviewed under Category III or Corps Individual Permit procedures, as appropriate.

11. Other Activities

- a. Any activity not otherwise identified in Category I, II or III above, which requires a PADEP Individual Permit, Dam Permit or Environmental Assessment Approval and Federal authorization, where the Corps, after coordination with the required Federal resource agencies, has determined the single and complete project will result in no more than minimal environmental impacts and will not result in more than one acre of impact to waters of the United States including jurisdictional wetlands.
- b. Any application that a resource agency may request, for Corps and resource agency review.

Part IV– Procedures:

A. Application Submittal:

Applicants must identify all impacts to waters of the U.S., including the direct and indirect impacts, both temporary and permanent, that are components of a single and complete project, including all attendant features. The delineation of wetland boundaries shall be accomplished in accordance with the current 1987 Corps of Engineers Wetland Delineation Manual (87 Manual). Applicants must apply for the necessary Commonwealth and Federal authorization by one of the following:

1. For PASPGP-2 Eligible Activities:

- a. Completing and submitting 3 copies of the appropriate Pennsylvania/Corps Joint Permit application form to the appropriate PADEP Regional Office and notifying the PHMC using the PADEP Cultural Resource Notification Form or other PHMC accepted format and providing proof of the notification and/or response from PHMC, with the permit application; or

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- b. Registering a PADEP Chapter 105 General permit at the appropriate PADEP Regional Office or, where applicable, the Delegated County Conservation District Office; or
- c. Completing and submitting to the appropriate PADEP Office, a PADEP Environmental Assessment for activities identified by 25 Pa. Code 105.15, and for those activities identified at 25 Pa. Code 105.12(a)(2, 11 and 16); (**Note:** No application permit submittal is necessary to PADEP for other activities identified as waived in 25 Pa. Code 105.12 (a) (1) through (10) and (12) through (15), however these may require a Corps permit application submittal as discussed below.)
- d. For Federal projects, submitting an Environmental Assessment Form as required by PADEP Chapter 105.15, and submitting it to the appropriate PADEP office for 401 Water Quality Certification.

2. For PASPGP-2 Ineligible Activities:

- a. Completing a Federal Section 10/404 Corps permit application and submitting it to the applicable Corps District Office for activities authorized by PADEP District Mining Offices and for activities identified in 25 Pa. Code 105.12(a)(1), Waiver 1.
- b. For activities in PASPGP-2 ineligible waterways, completing a Joint Permit application form and submitting it to the appropriate PADEP office who will forward a copy to the appropriate Corps office for Federal review and approval.
- c. For activities which qualify for PADEP Chapter 105.12 (a) (2, 6, 11 14 & 16) Waivers or PADEP Letter of Authorization, which involve the discharge of dredged or fill material or structures, including all attendant features both temporary and permanent, that are part of a single and complete project that individually or cumulatively result in direct or indirect impacts which exceeds one acre of waters of the United States, including jurisdictional wetlands, completing a Corps permit application and submitting it to the applicable Corps District Office.
- d. For activities registered for General Permit No. 15 the applicant must forward a copy of their request to the appropriate PADEP and Corps offices for review and approval.
- e. For all other activities which involve the discharge of dredged or fill material or structures, including all attendant features both temporary and permanent that are part of a single and complete project that individually or cumulatively result in direct or indirect impacts which exceed one acre of waters of the U.S. including jurisdictional wetlands, completing a Joint Permit application form and submitting it to the appropriate PADEP office who will forward a copy to the appropriate Corps office for Federal review and approval.

B. PASPGP-2 Verification Procedures:

- 1. **Category I (Corps review not required):** Proposed activities that are subject to Corps jurisdiction and that are part of a single and complete project that results in no more than minimal individual and cumulative adverse environmental impacts, may proceed without an application to the Corps, provided that all required State and local authorizations are obtained and the activities meet all terms and conditions of the PASPGP-2.

If the Corps or PADEP provide written notice to the applicant that alternative Corps review is required, the applicant cannot proceed to perform the work under Category I procedures.

- 2. **Category II Review:** An application submitted to PADEP is required for all Category II activities. The Corps or resource agencies will review the Pennsylvania Bulletin to determine if formal Federal review is required for all Category II projects, on a case-by-case basis. One copy of the permit application will be maintained in the PADEP Regional Office for resource agency review. If a resource agency is requesting a formal Category III Federal review of the permit

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application, they must notify the appropriate PA DEP Regional Office, prior to the expiration of the comment period in the Pennsylvania Bulletin. PADEP will forward the application as outlined in the SOP.

The project proponent may not begin work until PADEP or the Corps provides written verification to the applicant that the activity is eligible for authorization under the PASPGP-2 and that work can proceed as a Category II activity, provided all the required State and local authorizations are obtained. Notwithstanding any such verification, the activities must still comply with all the terms and conditions of the PASPGP-2, including activity-specific conditions or any special conditions imposed by PADEP or the Corps.

The Corps District may require a Corps Individual Section 10/404 permit or a NWP, or may notify PADEP that the activity is eligible for authorization under PASPGP-2, with or without special conditions. Whenever the Corps notifies an applicant that a Corps Individual Permit may be required, the project is not eligible for authorization under the PASPGP-2, and no work may be conducted until the Corps Individual Permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the PASPGP-2.

3. **Category III Review:** Applications for projects identified as Category III, will be reviewed by the Corps and when applicable; The Environmental Protection Agency (EPA), The U.S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS), Pennsylvania Department of Environmental Protection (PADEP), Pennsylvania Fish and Boat Commission (PFBC), Pennsylvania Game Commission (PGC), Pennsylvania Historic and Museum Commission (PHMC), and in some cases the public to determine eligibility for authorization under the PASPGP-2. If the Corps determines that the applicant's proposed project will result in no more than minimal individual and cumulative adverse environmental impacts, meets the terms and conditions of the PASPGP-2, and does not contain unresolved issues that would be of Federal interest (e.g., endangered species or wild and scenic rivers etc.), then the Corps will notify PADEP and/or the applicant that it has determined that the proposed project is eligible for authorization under the PASPGP, provided the required State and local authorizations are obtained.

When coordination with the Pennsylvania SHPO results in identification of a potential Section 106 affect within the permit area, or coordination with the FWS results in identification of a Federally listed threatened or endangered species, the project will follow Category III procedures. Where Category III procedures are initiated due to Section 106 or endangered species concerns, the Corps will allow up to 30 days for comment by the applicable agency.

If the Corps District determines that the activity complies with all the terms and conditions of the PASPGP-2 and that the adverse effects are minimal, the Corps District will notify PADEP within 45 days of receipt of the joint application that the proposed action meets the requirements of the PASPGP-2, or meets the requirements of the PASPGP-2 with the inclusion of project-specific conditions, or,

The Corps District will notify PADEP and prospective permittee, prior to the expiration of the 45-day deadline, that an extension of the 45-day limit is required to complete the Corps District's evaluation. Such notification will be in writing; state the reason for the time extension and state how long the extension beyond 45 days will be needed. The requested extension will automatically replace the time limits stated above. . Whenever the Corps notifies an applicant that a Corps Individual Permit may be required, the project is not eligible for authorization under the PASPGP-2, and no work may be conducted until the Individual Corps Permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under the PASPGP-2.

For activities which qualify for the PASPGP-2, PADEP, the Corps or the County Conservation District will process and issue Federal authorization through the PASPGP-2 and will provide a copy of the PASPGP-2 conditions and, if applicable, project-specific conditions.

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Resource agencies will be notified for gravel bar removal projects as outlined in the SOP. Any gravel bar removal project which the Corps has determined to be unregulated, will not require a PASPGP-2.

The project proponent may not begin work until PADEP or the Corps provides written verification to the applicant that the activity is eligible for authorization under the PASPGP-2 and that work can proceed as a Category III activity, provided all the required State and local authorizations are obtained. Notwithstanding any such verification, the activities must still comply with all the terms and conditions of the PASPGP-2, including activity-specific conditions or any special conditions imposed by PADEP or the Corps.

C. Agency Objection:

If any Federal or state resource agency objects to authorization of a specific project under PASPGP-2, within the Pennsylvania Bulletin comment period and the Corps District does not concur with the agency's objection, the agency has an additional 15 days for a Division Director (EPA, FWS, NMFS) or Executive Director of State resource agencies to express a formal objection, within their area of expertise and/or authority, to authorization under the PASPGP-2. The Corps District will attempt to resolve the objection, within 45 days of receipt of the objection. If the Corps District cannot resolve an objection by the agency within 45 days, that application will not qualify for authorization under PASPGP-2, and the Corps will evaluate the activity under Individual Permit procedures. However, should all objectives be resolved, the applicability of PASPGP-2 may be reinstated and may include project specific conditions to protect the public interest.

D. Corps Alternative Permit Review:

1. If a project is ineligible under the terms and conditions of the PASPGP-2, the Corps will notify PADEP and the applicant that the project will require further evaluation under alternative permit procedures, including a public interest review. All information submitted by the applicant for the PASPGP-2 review will also be used by the Corps for the alternative permit review. Individual Water Quality Certification (WQC) and Coastal Zone Management Consistency (CZM) determination may be required for projects alternatively reviewed. WQC and CZM may be included as part of PADEP's authorization.
2. Activities that requires DA authorization, but that do not meet the terms and/or conditions of the PASPGP-2 are ineligible for authorization/verification under the PASPGP-2 and will be reviewed under alternative permit procedures. However, during the alternative permit review, the Corps may determine that the proposed adverse environmental effects have been reduced to minimal and the proposed project meets the terms and conditions of the PASPGP-2. At that time the Corps may verify PASPGP-2 eligibility
3. Discretionary Authority: Notwithstanding compliance with the terms and conditions of the PASPGP-2, the Corps retains discretionary authority to require a Corps Individual Permit review for any project based on concerns for the aquatic environment or for any other factor of the public interest. This authority is invoked on a case-by-case basis whenever the Corps determines that the potential consequences of the proposal warrant individual review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal, or if there is a special resource or concern associated with a particular project, that is not already covered by the remaining conditions of the PASPGP-2, that warrants greater review.

Part V – General Conditions:

For an activity involving the placement of a structure or discharge of dredged or fill materials into Waters of the United States to be authorized by this PASPGP-2, it must meet the following requirements and conditions:

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A. General Requirements:

1. State Authorization. The activity must receive State authorization. For the purpose of this condition, any one of the following would be considered as State authorization:
 - a. A PADEP Chapter 105 Water Obstruction and Encroachment Permit, including a PADEP approved Environmental Assessment per 25 Pa. Code 105.15, or
 - b. A PADEP General Permit issued per 25 Pa. Code 105.441 – 105.449, or
 - c. A PADEP approved Environmental Assessment for activities not otherwise requiring a PADEP permit per 25 Pa. Code 105.15, or
 - d. A CWA Section 401 Water Quality Certification for activities which qualify for waiver of PADEP permit requirements per 25 Pa. Code 105.12(a), or
 - e. A PADEP Dam Permit, including a PADEP approved Environmental Assessment per 25 Pa. Code 105.15, or
 - f. A PADEP Letter of Authorization for maintenance or repairs to existing authorized dams, including maintenance dredging or
 - g. A PADEP Emergency Permit issued per 25 Pa. Code 105.64.
 - h. The maintenance provision of a previously authorized PADEP permit for the construction of a bridge or culvert (including bridges and culverts authorized by PADEP prior to the implementation of the PASPGP-1 in March 1995), which allows for maintenance activities of bridges and culverts.
 - i. A PADEP Chapter 105 Dam Safety and Encroachment Consent Order.
2. Other Permits. The following Federal, State and/or local authorizations or approvals are required where applicable and must be secured prior to initiating any discharge of dredged, or fill material or the placement of structures into waters of the United States, including jurisdictional wetlands. These approvals include:
 - a. A Section 401 Water Quality Certification issued by PADEP pursuant to Section 401 of the CWA.
 - b. A Consistency Determination issued by PADEP pursuant to Section 307 of the Federal Coastal Zone Management Act for activities located within designated Coastal Zone Management Areas.
 - c. For activities resulting in permanent, above-grade fills in waters of the United States within 100-year floodplains mapped by the Federal Emergency Management Agency (FEMA) or State or local governments, the permittee must comply with the applicable FEMA, State, and local floodplain construction requirements.
3. Applicability of the PASPGP-2 shall be evaluated with reference to the Corps definition of waters of the United States, including wetlands and navigable waters of the United States. Applicants are responsible for delineating boundaries of all waters of the United States, including wetland boundaries. The delineation of wetland boundaries shall be accomplished in accordance with the current Corps of

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Engineers Wetland Delineation Manual (1987 Manual) and appropriate guidance issued by the Corps of Engineers.

4. Minimal Effects. Projects authorized by the PASPGP-2 shall have no more than minimal adverse environmental effects, individually and/or cumulatively.
5. Single and Complete Projects. The PASPGP-2 shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single project shall be treated together as constituting one single and complete project, and shall be evaluated together, for purposes of PASPGP-2 authorization. All planned phases of multi-phased projects shall be treated together as constituting one single and complete project. For purposes of this condition, all proposed phases of multi-phased projects will be evaluated for authorization, cumulatively with all previously authorized phases as a single and complete project. This general permit shall not be used for any activity that is part of an overall project for which an Individual Permit is required.
6. Cultural Resources. Any activity authorized by the PASPGP-2 shall comply with Section 106 of the National Historic Preservation Act (NHPA). No activity is authorized under the PASPGP-2 which may adversely affect cultural resources listed or eligible for listing in the National Register of Historic Places until the requirements of Section 106 of the NHPA are met. The applicant must notify the SHPO, at the PHMC, using the PADEP Cultural Resources Notification Form for all PADEP Individual Permits and include a copy of the form as proof of notification in their joint permit application. The PHMC in cooperation with the SHPO shall conduct an initial review and notify the Corps if any archaeological or other cultural resources are in the vicinity of the project. The Corps may require permittees to perform a survey of historic and archaeological resources in the project area. The Corps shall determine if consultation under Section 106 with the Advisory Council on Historic Preservation is required.

For all activities authorized under a PASPGP-2, upon the discovery of the presence of a previously unknown historic or archaeological site, all work must cease and the permittee must notify the SHPO and the Corps of Engineers. The PASPGP-2 authorization is suspended until it is determined, through the Section 106 consultation process, whether the activity will have an adverse effect on the cultural resource. The suspended authorization under PASPGP-2 may be reactivated or modified, through specific conditions if necessary, if it is determined that the activity will have no adverse effect on the cultural resource. The PASPGP-2 authorization may be revoked for the specific activity if the cultural resource will be adversely affected

7. National Lands. Activities authorized by the PASPGP-2 shall not impinge upon the value of any Federal Land, including but not limited to, National Wildlife Refuge, National Forest, National Marine Sanctuary or any area administered by the National Park Service, or wetlands or waters designated under the Ramsar Convention.
8. Tribal rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reversed water rights and treaty fishing and hunting rights.
9. Water supply intakes. No discharge of dredged or fill material or structure may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization, unless Corps of Engineers approved and appropriate mitigation measures are to be implemented which will protect the water supply.
10. Endangered Species. If the proposed activity may affect a Federally listed species or proposed species, or its critical habitat, the Corps must initiate consultation with FWS and NMFS in accordance with the Federal Endangered Species Act (ESA) prior to authorization of the activity under the PASPGP-2. No activity is authorized under the PASPGP-2 which may affect Federally listed or proposed species or adversely modify critical habitat, until the consultation requirements of Section 7 of the ESA are met. In addition, no activity is authorized under the PASPGP-2 which is likely to, individually or cumulatively, jeopardize the continued existence of a threatened or endangered species or a species

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proposed for such designation, as identified under the ESA, or which is likely to destroy or adversely modify the critical habitat of such species identified under ESA.

If an activity is authorized under the PASPGP-2, and a Federally listed or proposed species or critical habitat is subsequently found to be present, all work must cease, and the Corps and USFWS (or NMFS) must be notified. The PASPGP-2 authorization is suspended until the conclusion of Section 7 consultation in accordance with ESA. The PASPGP-2 authorization will be revoked for the specific project if the species or critical habitat is adversely affected. Furthermore, persons have an independent responsibility under Section 9 of ESA to not engage in any activity that could result in the “take” of a Federally listed species.

All projects/activities proposed to be authorized under this PASPGP-2 must undergo a review using the Pennsylvania Natural Diversity Inventory (PNDI) database when project information is submitted to the Corps, DEP or Conservation District for review. Documentation of this review (i.e., a letter from PNDI, or a copy of the PNDI response obtained from the web site search) must be included in the project file. If a PNDI review indicates a potential conflict with a Federally listed or proposed species or its critical habitat, the FWS must be consulted by PADEP or the Corps to determine the appropriate course of action to ensure compliance with the Endangered Species Act. In these cases, PADEP or the Corps will provide the FWS with a copy of the permit application or project information, along with the results of the PNDI review. The PASPGP-2 shall not be issued until consultation pursuant to section 7 of the ESA is concluded.

Additional project screening and review will be conducted for activities proposed to occur in areas known or likely to support Federally listed or proposed species. The FWS will provide the Corps and PADEP with a list of such areas (which will be updated periodically). Within these areas, specific review procedures will be followed, as detailed in the Threatened and Endangered Species section of the PASPGP-2 Standard Operating Procedures.

11. Federal Projects.

- a. Navigation Projects. The PASPGP-2 does not authorize interference with any Corps navigation project. The permittee understands and agrees that, if future operations by the United States require removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
- b. Other Federal Projects (i.e. Flood Control, Dams, and Reservoirs). The PASPGP-2 does not authorize interference with any proposed or existing Federal project.

12. Federal Liability. In issuing this permit, the Federal government does not assume any liability for the following:

- a. damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes;
- b. damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
- c. damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
- d. design or construction deficiencies associated with the permitted work; and

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- e. damage claims associated with any future modification, suspension, or revocation of the PASPGP-2.
13. Navigation. There shall be no interference with navigation by the existence or use of a project authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. Nothing in the PASPGP-2 shall in any way restrict the District Engineer, U.S. Army Engineer District, Baltimore, Philadelphia or Pittsburgh, from exercising his or her legal authority to protect the federal interest in navigation and in the navigation servitude of the United States.

B. Best Management Practices:

1. Minimization and Mitigation. Discharges of dredged or fill material or structures into waters of the United States must be avoided and minimized to the maximum extent practicable at the project site. Once avoidance and minimization of unavoidable adverse impacts has been demonstrated, compensatory mitigation may be used to offset unavoidable adverse impacts. The Pennsylvania Wetland Replacement Project (Fund) may be used to compensate for impacts approved under the authority of PASPGP-2, provided the projects meet PADEP's qualifications for the use of the Fund as per PADEP's current Guidelines for Restoration Projects and is in accordance with the PASPGP-2 Standard Operating Procedures document.
2. Equipment working in wetlands. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance, including avoiding the use of such equipment, use of timbermats, geotextile fabric, and low pressure tire vehicles. Disturbed areas in wetlands shall be restored to preconstruction contours upon completion of the work.
3. Temporary Fill and Mats. Temporary fill and the use of mats are both considered discharge of fill material and must be included in the quantification of impact area authorized by the PASPGP-2. Temporary fill in waters and wetlands authorized by the PASPGP-2 (i.e. access roads, cofferdams) shall be properly stabilized during use to prevent erosion. Temporary fill in wetlands shall be placed on geotextile fabric laid on existing wetland grade. Temporary fills shall be disposed of at an upland site, suitably contained to prevent erosion and transport to a waterway or wetland. Temporary fill areas shall be restored to their original contours and revegetated with comparable native species.
4. Erosion and siltation controls. Appropriate erosion and siltation controls in accordance with State regulations must be used and maintained in effective operating condition during construction, and all exposed soil and other fill must be permanently stabilized at the earliest practicable date.
5. Aquatic Life movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.
6. Shellfish production. No discharge of dredged or fill material or structure may occur in areas of concentrated shellfish production, unless the discharge is directly related to an authorized shellfish harvesting activity.
7. Spawning areas. Discharges or structures in spawning or nursery areas shall not occur during spawning seasons, unless written approval is obtained by the Pennsylvania Fish and Boat Commission (PFBC). Impacts to these areas shall be avoided or minimized to the maximum extent practicable during all other times of the year. The permittee shall comply with all time-of-year restrictions as set forth by the PFBC. For more information regarding time-of-year restrictions contact the PFBC at (814) 359-5145.
8. Adverse impacts from impoundment. If the discharge or structures creates an impoundment of water, adverse impacts on the aquatic system caused by the accelerated passage of water and/or

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the restriction of its flow, including impacts to wetlands, shall be minimized to the maximum extent practicable.

9. Waterfowl breeding areas. Discharges or structures in breeding areas of migratory waterfowl must be avoided to the maximum extent practicable.
10. Suitable material. No discharge of dredged or fill material or structure may consist of unsuitable material or solid waste (e.g., asphalt, trash, debris, car bodies, etc.) and no material discharged shall contain toxic pollutants in amounts that would violate the effluent limitation standards of § 307 of the CWA.
11. Obstruction of high flows. To the maximum extent practicable, discharges or structures must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters.)

C. Procedural Conditions:

1. Maintenance. Any fill or work authorized shall be properly installed and maintained to ensure public safety.
2. Inspections. The permittee shall permit a District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with all the terms and conditions of the PASPGP-2. The District Engineer may also require post-construction engineering drawings (as-built plans) for completed work.
3. PADEP Permit Conditions. The permittee shall comply with all terms and conditions set forth in the PADEP authorization for use of this permit, including all conditions of Section 401 Water Quality Certification, and any subsequent amendment or modification to such Authorization. The permittee shall conduct all work and activities in strict compliance with all approved maps, plans, profiles, and specifications used by PADEP and/or the Corps as the basis for its authorization or subsequent modification of authorization.
4. Special Conditions. The Corps may impose other special conditions on a project authorized pursuant to the PASPGP-2, where it is determined necessary to minimize adverse environmental effects or based on any other factor of the public interest. Failure to comply with all conditions of the authorization, including special conditions, will constitute a permit violation and may be subject to criminal, civil, or administrative penalties, and /or restoration.
5. False and incomplete information. If any of the information contained in the Pennsylvania/Corps Joint Permit Application, PADEP General Permit registration, PADEP Environmental Assessment and/or plans is found to be in error, falsified, and/or incomplete, the PASPGP-2 authorization may be subject to modification, suspension, or revocation in accordance with 33 CFR 325.7.
6. Permit Modifications. Any proposed modification of the authorized project that results in a change in the authorized impact to, or use of waters of the United States, including jurisdictional wetlands, must be approved by PADEP. Corps approval is also required if the proposed modification causes the total project impacts to exceed one acre of waters of the U.S including jurisdictional wetlands, or 250 linear feet of streams, rivers, or other jurisdictional waterbodies including open water areas.
7. Permit Expiration. The project-specific PASPGP-2 authorization is valid for the same period as the project-specific PADEP authorization, not to exceed three years from the date of authorization, unless modified or extended. PASPGP-2 authorization for activities receiving PADEP General Permits shall not exceed three years.

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8. One-time use. A project-specific PASPGP-2 authorization is valid to construct the project, or perform the activity, one time only, except for maintenance activities associated with the authorized activity.
9. Property Rights. This PASPGP-2 does not convey any property rights, either in real estate or material, or any exclusive privileges; nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

Part VI – Enforcement and Compliance

1. Compliance. Any activity performed in any Federally regulated waters, including wetlands, that is not in total compliance with all the terms and conditions, of the PASPGP-2 constitutes unauthorized work and is subject to an enforcement action by the Department of the Army or the EPA. Furthermore, this PASPGP-2 does not delegate any Federal Section 10/404 enforcement or regulatory authority to any non-Federal Section 10/404 agency. When unauthorized work occurs in a Federally regulated wetland or other waters, it is subject to one or more of the following responses by EPA and/or the Corps of Engineers.
 - a. A Cease and Desist Order and/or an administrative compliance order requiring remedial action.
 - b. Initiation and assessment of Class I administrative penalty orders pursuant to Section 309(g) of the CWA up to \$10,000 per violation.
 - c. Initiation and assessment of a Class II administrative penalty for a continuing violation of \$10,000 per day up to a maximum of \$125,000.
 - d. Referral of the case to the U.S. Attorney with a recommendation for civil or criminal action.
 - e. If the Corps District determines that an after-the-fact application is appropriate, it will be evaluated following the appropriate permit processing procedures.
2. Enforcement. The PASPGP-2 does not apply to any existing or proposed activity in Corps jurisdiction associated with an on-going Corps enforcement action, until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action.

The Corps/PADEP coordination requirements for compliance and enforcement are further detailed in the SOP document.

Part VII – Duration of Authorization:

A. Duration of Authorization:

1. The PASPGP-2 is authorized for a period of 5 years. For individual projects verified/authorized by the PASPGP-2 the construction period expires within 3 years of the date of the project-specific PASPGP-2 verification letter, or when the PASPGP-2 expires, is suspended, or revoked, whichever date occurs sooner. The 3-year expiration date for construction of the project may be extended, with prior approval by PADEP or the Corps, as appropriate, provided the permittee requests the extension prior to the expiration date of the verification letter. However, the extension may not be extended beyond the expiration of the PASPGP-2 itself, or it's suspension or revocation.

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2. If the PASPGP-2 is not modified or reissued within five years of its effective date, it automatically expires and becomes null and void on June 30, 2006.
3. Activities authorized under the PASPGP that have commenced construction or are under contract to commence construction, in reliance upon prior authorization of the PASPGP-2 will remain authorized provided the activity is completed within the terms specified within the PADEP Chapter 105 Permit or within three years of the project specific permit issuance date, whichever is less, unless the Corps of Engineers has determined that the specific activity does not qualify for authorization under the PASPGP-2 and exercises Corps authority to modify, suspend, or revoke the authorization in accordance with Department of the Army Regulations at 33 CFR 325.7. Activities completed under the authorization of the PASPGP-2 continue to be authorized by the PASPGP-2.

B. Changes to State Statutes, Regulations or General Permits:

Proposed changes to the State program regulations or State laws will be reviewed by the Corps of Engineers and a determination made through a public interest review, including consultation with appropriate resource agencies, to the continued use of the PASPGP-2 with the modified State regulation or State law.

C. Reporting and Evaluation:

PADEP will provide periodic reports to the Baltimore District Engineer describing their implementation of the PASPGP-2.

D. Modification, Suspension, or Revocation:

1. The Baltimore District Engineer, in consultation with the other Corps District and Division Engineers, will periodically review the PASPGP-2 and its terms, conditions, and processing procedures and will decide to either suspend, modify, or revoke the PASPGP-2 authorization for any specific geographic area, class of activities, or class of waters within the District, by notifying PADEP and issuing a public notice notifying the general public. The notice will state the concerns regarding the environment or other relevant factors of the public interest. Before the Corps District modifies or revokes such PASPGP-2 authorizations, the District will provide, if appropriate, a grandfathering period for those who have commenced work or are under contract to commence work in reliance on the PASPGP-2 authorization; and notify affected parties of the modification, suspension, or revocation, including the effective date. A Corps District may also suspend, modify, or revoke a project specific activity's authorization under the PASPGP-2 at any time.
2. Substantive changes to the Pennsylvania Chapter 105 program may require immediate suspension and revocation of the PASPGP-2 in accordance with 33 CFR 325.7., or formal modification subject to public review and input.

By Authority of the Secretary of the Army: